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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals, MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

B5

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: FEB 01 2010  
SRC 06 234 52760

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

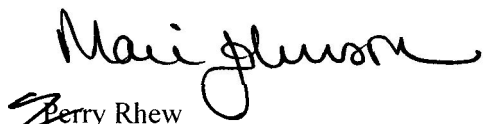
PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on certification. The petition will be denied as moot.

The petitioner is a health care support services and technical products provider. It seeks to employ the beneficiary permanently in the United States as a public health specialist, O\*NET Code 29-9099.99, pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). In pertinent part, section 203(b)(2) of the Act provides immigrant classification to aliens of exceptional ability and members of the professions holding advanced degrees or their equivalent and whose services are sought by an employer in the United States. As required by statute, an ETA Form 9089 Application for Alien Employment Certification approved by the Department of Labor (DOL), accompanied the petition. The director determined that the job offered did not require a member of the professions holding an advanced degree.

On certification, counsel asserted that the primary job requirement was actually a foreign degree. Counsel did not explain how this claim is consistent with the format of the ETA Form 9089 or DOL regulations.

Review of U.S. Citizenship and Immigration Services (USCIS) records indicates that, subsequent to filing the instant petition, another employer filed a Form I-140 petition under a different classification, with receipt number SRC-09-020-51146. USCIS records further indicate that the second petition was approved on July 7, 2009. The beneficiary filed a Form I-485 Application to Adjust Status, receipt number SRC-09-020-51184, which was approved on the same date. Because the alien has adjusted to lawful permanent resident status, further pursuit of the matter at hand is moot.

**ORDER:** The petition is denied based on the alien's adjustment to lawful permanent resident status.